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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/729,713   | 12/05/2003  | Annette D. Bravard   | P052444US00         | 2666             |
| 27139  | 7590        | 11/09/2005           | EXAMINER            |                  |
| MCKEE, VOORHEES & SEASE, P.L.C.<br>ATTN: MAYTAG<br>801 GRAND AVENUE, SUITE 3200<br>DES MOINES, IA 50309-2721 |             |                      | SOOHOO, TONY GLEN   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1723                |                  |

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/729,713

Applicant(s)

BRAVARD ET AL.

Examiner

Tony G. Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim interpretation***

1. Claims 1-22 are now directed to a blender combination and in addition with a jar with a particular cross sectional area of the jar. Whereby the claim does not specify whether the cross sectional area is either to be measured about the exterior of the container or the interior capacity volume of the container, any cross sectional area measurable across the jar may be deemed as the recited cross sectional area as required by the claims.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8-9, 15-17, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartwig et al 3172441.

The reference discloses, a jar 1 with a body having smaller cross section area at the neck 4 and increased cross section curved areas leading from the smaller cross section area 4 along the ribs see figure 1.

With regards to claims 16-17 note that the rib forms a curved profile section and a outward curvature at the top of the rib transition to the outer wall.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle D483994 in view of Nissman 3315946 (newly cited).

The Boyle design patent from a different inventive entity, filed June 5, 2003, discloses a blender jar for use inherently with a blender base and blender motor drive in which the jar with has a cross section with the relative reduced cross sections and curved direction from the ends as pointed out in the claims. The Boyle (des.'994) reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of having a base with an electric motor and blade knives in the blender jar.

The Nissman (newly cited) reference discloses a blender jar 11 have a knife blade 16 disposed in the blender jar for mixing and comminuting food which is powered by an electric motor in a base 12, column 2, line 20-23.

In view of the teaching of Nissman that a blender jar usually has a bladed knife and an electric motor base for blending and driving the blades for blending, it is deemed that it would have been obvious to one of ordinary skill in the art to provide for the blender jar of Boyle D483994 with a bladed knife and an electric motor base for blending and driving the blades such that the blending jar may be able to provide blending as required by the title of the invention of a "blender" jar.

With regards to the relative size of the knife to the cross sectional area, it is well known in the art that the diameter size of the rotor is an effective variable in the amount

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of fluid kinetic momentum transfer to the fluid from the rotor for processing, accordingly, it is deemed that without undue experimentation, it would have been obvious to one of ordinary skill in the art to modify the size of the rotor to a size substantially the equal to the size of the reduced cross section of the jar in order to optimize the fluid flow, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

5. Claims 1-7, 9-13, 19-20, 22-25, and 27. are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall 6332706 in view of Murray 2702571.

The Hall reference discloses, figures 7- 9, a jar with a body having smaller cross section area and increased cross section curved areas leading from the smaller cross section area, and having the larger and smaller cross section or diameter portions as recited in the claims. Note that the jar may be used to blend materials and may be used upon a base having a motor, and may be used to contain a metal knife if placed in the vessel. Hall also teaches a base with an electric drive motor to provide an magnetic coupling of the stirrer agitator element 14 usable in the jar.

The Hall reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of having an agitator with a knife blade in the jar.

The reference to Murray teaches that a magnetically driven stirring device with a container 1 may be provided with an agitator element 3 having wings or blades, column

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1, lines 54-65 which cut or shear through the material, column 2, line 69 and stir and agitate, column 2, line 22.

In view of the teaching of the Murray reference, it is deemed that it would have been obvious to one of ordinary skill in the art to substitute for the agitator 14 of Hall with a bladed agitator of Murray so as to produce additional shear so that the material in the flask of Hall is better subjected to shear effects.

With regards to the a handle, it is old and well known to provide handles to a jar for ease of pouring accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to provide for jar with a handle so that it may be easily poured.

With regards to the relative size of the knife to the cross sectional area, it is well known in the art that the diameter size of the rotor is an effective variable in the amount of fluid kinetic momentum transfer to the fluid from the rotor for processing, accordingly, it is deemed that without undue experimentation, it would have been obvious to one of ordinary skill in the art to modify the size of the rotor to a size substantially the equal to the size of the reduced cross section of the jar in order to optimize the fluid flow, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

***Response to Arguments***

Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection. Applicant has added additional structural limitations which are now addressed in the new rejection made above.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

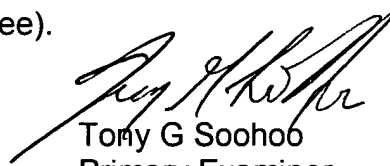
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7-5PM, Tue-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo  
Primary Examiner  
Art Unit 1723

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